

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

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* **DOCKET NO. 2020-5776-ETHICS-B**

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IN THE MATTER OF

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BUB TUCKER, II

* **AGENCY TRACKING NO. 5120-044**

DECISION AND ORDER

Bub Tucker, II knowingly failed to file two campaign finance disclosure reports as required by law. The Board of Ethics, acting in its capacity as the Supervisory Committee on Campaign Finance Disclosure, may impose upon Bub Tucker, II additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).

APPEARANCES

A hearing was conducted December 11, 2020, in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).¹ Charles Reeves appeared as counsel on behalf of the Board of Ethics (BOE). Although duly noticed, Bub Tucker, II (Respondent) did not appear for the hearing.²

STATEMENT OF THE CASE

The BOE requested that the EAB conduct an adjudicatory hearing to determine whether, pursuant to La. R.S. 18:1505.4(A)(4)(a), Respondent was more than six days late filing his 10-P campaign finance disclosure report for the October 12, 2019, primary election for the office of Mayor of the City of Ponchatoula. The BOE also requested that the EAB conduct an adjudicatory

¹ Panel B of the EAB consists of Administrative Law Judges Gregory McDonald (presiding), Anthony Russo, and Esther Redmann.

² See BOE-11.

hearing to determine whether, pursuant to La. R.S. 18:1505.4(A)(4)(b), Respondent was more than eleven days late filing his 10-G campaign finance disclosure report for the November 16, 2019, general election for the office of Mayor of the City of Ponchatoula.

At the hearing, BOE offered its exhibits, numbered BOE-1 through BOE-12, which were admitted into evidence. BOE requested the EAB make a determination of whether Respondent was late filing his 10-P campaign finance disclosure report by more than six days, and whether Respondent was late filing his 10-G campaign finance disclosure report by more than eleven days, which would subject him to additional civil penalties under La. R.S. 18:1505.4(A)(4). The record was closed and the matter was submitted for decision.

This adjudication is conducted in accordance with the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, and the Administrative Procedure Act, La. R.S. 49:950, *et seq.*

FINDINGS OF FACT

Respondent was an unsuccessful candidate for the office of Mayor of the City of Ponchatoula in a primary election held October 12, 2019. The office of Mayor of the City of Ponchatoula is an “any other” level office.³ Respondent was defeated in the primary election.⁴ A runoff of the top two candidates was held in the general election on November 16, 2019.⁵ Respondent was required to file a campaign finance disclosure report thirty days prior to the

³ La. R.S. 18:1483(7) defines a “district office” and La. R.S. 18:1483(11) defines a “major office.” La. R.S. 18:1484(2) defines a candidate for “any other” public office as a candidate for a public office, other than a candidate for a district office or a major office, who makes expenditures in excess of two thousand five hundred dollars or receives a contribution in excess of two hundred dollars in the aggregate during the aggregating period. For the purposes of this provision, a contribution by a candidate for his own campaign for a public office other than a major office or district office shall not be considered in determining whether a candidate has received a contribution in excess of two hundred dollars in the aggregate. La. R.S. 18:1484(2)(b).

⁴ BOE-3, p. 2 of 4.

⁵ BOE-4.

primary election (also known as a 30-P), due on September 12, 2019.⁶ Respondent was required to file a campaign finance disclosure report ten days prior to the primary election (also known as a 10-P), due on October 2, 2019, and a campaign finance disclosure report ten days prior to the general election (also known as the 10-G), due on November 6, 2019.⁷

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.⁸ Election candidates, when qualifying at their respective clerks of court, are provided with BOE's Schedule of Reporting and Filing Dates for Candidates (Schedule).⁹ The Schedule informed Respondent that the 30-P report was due September 12, 2019, the 10-P report was due October 2, 2019, and the 10-G report was due November 6, 2019.¹⁰ Upon qualifying to run for office, Respondent also acknowledged that he was subject to the provisions of the CFDA.¹¹

Respondent timely filed the required 30-P report.¹² Respondent reported contributions in the aggregate amount of \$10,902.20 for the period, from his own personal funds.¹³ Respondent reported expenditures of \$10,902.20, of which one individual expenditure totaled \$4,172.00.¹⁴

Respondent did not file the required 10-P report by the due date, October 12, 2019. The 10-P report had not been filed as of November 18, 2020.¹⁵

Respondent was required to file a campaign finance disclosure report ten days prior to the general election (also known as a 10-G), due on November 6, 2019, in connection with the election.

Respondent did not file the required 10-G report by the due date, November 6, 2019. The

⁶ BOE-4.

⁷ BOE-4.

⁸ La. R.S. 18:1483(19).

⁹ See BOE-2, BOE-4.

¹⁰ *Id.*

¹¹ BOE-2, page 3. The Campaign Finance Disclosure Act, La. R.S. 18:1481, *et seq.*, also provides the same schedule of reports due. See La. R.S. 18:1495.4(B)(3) - (5).

¹² BOE-5, pp. 7-11.

¹³ BOE-5, pp. 8, 10.

¹⁴ BOE-5, pp. 8, 11.

¹⁵ BOE-9.

10-G report had not been filed as of November 18, 2020.¹⁶

Respondent failed to appear for the hearing, despite notice of the hearing being sent to his last known address.¹⁷

CONCLUSIONS OF LAW

The BOE proved that Respondent knowingly failed to file a 10-P campaign finance disclosure report and a 10-G campaign finance disclosure report as required by law, and the BOE may impose upon Respondent additional civil penalties.

La. R.S. 18:1505.4(A)(4)(a) and (b) of the CFDA provide that if, after conducting an adjudicatory hearing, the EAB determines that a candidate knowingly failed to file the required campaign finance disclosure report, or filed it more than six days [La. R.S. 18:1505.4(A)(4)(a)] or eleven days [La. R.S. 18:1505.4(A)(4)(b)] late, then the BOE, functioning as the Supervisory Committee on Campaign Finance Disclosure, may impose upon the candidate additional civil penalties not to exceed \$10,000.00 per report.

In hearings under the CFDA before the EAB, the BOE must prove by clear and convincing evidence that the candidate knowingly failed to file a required campaign finance disclosure report (or filed it more than six or eleven days late, depending on the report). A rebuttable presumption of intent not to file reports exists when a candidate fails to submit any required report within three days after the final date for its filing.¹⁸

The office of Mayor of the City of Ponchatoula is an “any other” level office.¹⁹ The BOE proved Respondent failed to timely file two campaign finance disclosure reports as a candidate for

¹⁶ BOE-9.

¹⁷ BOE-11.

¹⁸ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

¹⁸ La. R.S. 18:1505.1(A).

¹⁹ La. R.S. 18:1483(7), (11), and (16); La. R.S. 18:1484(2).

that office in the October 2019 primary election. Every candidate for “any other” public office (or his campaign treasurer) is required to file reports of contributions and expenditures on specific days before and after an election, when the candidate makes expenditures in excess of two thousand five hundred dollars or receives a contribution in excess of two hundred dollars in the aggregate during the aggregating period. For the purposes of this provision, a contribution by a candidate for his own campaign for a public office other than a major office or district office shall not be considered in determining whether a candidate has received a contribution in excess of two hundred dollars in the aggregate.²⁰

Any candidate for “any other” office, who knowingly fails to timely file a required report may be assessed a civil penalty in the amount of \$40 per day, not to exceed \$1,000.00.²¹ The BOE assessed the maximum amount of \$1,000.00, as the required reports were not filed by day twenty-five of the reports being late.²² This assessment is not before the EAB. “Knowingly” means conduct which could have been avoided through the exercise of due diligence.²³

The EAB concludes that both the statute²⁴ and the instructions provided in the Schedule prepared by the BOE contemplate that a candidate in the primary election, like Respondent, must file a 10-G report, even where he does not participate in the general election. The statute requiring the filing of the 10-G report, La. R.S. 18:1495.4(B)(5), provides:

B. A report shall be filed by a candidate for each regularly scheduled election in which the candidate participates according to the following schedule:

(5) Each candidate shall file a report no later than the tenth day prior to the general election which shall be complete through the twentieth day prior to the general election. This shall be the final report for the election for any candidate who does not participate in the general election, unless

²⁰ La. R.S. 18:1484(2)(b).

²¹ La. R.S. 18:1505.4(A)(2)(a)(iii).

²² \$40.00 multiplied by 25 days equals \$1,000.00, the statutory maximum in La. R.S. 18:1505.4(A)(2)(a)(iii).

²³ La. R.S. 18:1505.5.

²⁴ La. R.S. 18:1495.4.

supplemental reports are required as provided in Subsection D of this Section. (emphasis added).

The Schedule of Reporting and Filing Dates²⁵ informed Respondent the 10-G report was due November 6, 2019.²⁶ The Schedule also advised Respondent that a 10-G report was required of all candidates in the primary election. Finally, the 10-G report covers contributions and expenditures from September 23, 2019, through October 27, 2019, a period which is not covered by the 30-P and 10-P reports.²⁷

By knowingly failing to file the required reports, Respondent violated the CFDA, and may be assessed an additional civil penalty up to \$10,000.00 by the BOE for each late report.²⁸

The BOE proved Respondent, a candidate for “any other” office, failed to file his 10-P campaign finance disclosure report by October 2, 2019; and he failed to file his 10-G campaign finance disclosure report by November 6, 2019. As of November 18, 2020, he had not filed either of the two reports. He is more than six days late in filing his 10-P campaign finance disclosure report. He is more than eleven days late in filing his 10-G campaign finance disclosure report. The BOE, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, is authorized to impose additional civil penalties under authority of La. R.S. 18:1505.4(A)(4)(a) and (b), not to exceed ten thousand dollars (\$10,000.00) for each late report.

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²⁵ BOE-4.

²⁶ *Id.*

²⁷ *Id.*

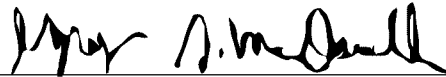
²⁸ La. R.S. 18:1505.4(A)(4).

ORDER

IT IS ORDERED that the 2019 10-P campaign finance disclosure report of Bub Tucker, II is more than six days late, and the Board of Ethics, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, may impose upon Bub Tucker, II additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(a).

IT IS FURTHER ORDERED that the 2019 10-G campaign finance disclosure report of Bub Tucker, II is more than eleven days late, and the Board of Ethics, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, may impose upon Bub Tucker, II additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(b).

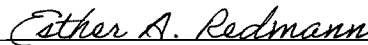
Rendered and signed December 30, 2020, Baton Rouge, Louisiana.



Gregory McDonald
Presiding Administrative Law Judge



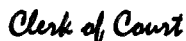
Anthony Russo
Administrative Law Judge



Esther Redmann
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Wednesday, December 30, 2020, I have sent a copy of
this decision/order to all parties of this matter.



Division of Administrative Law

REVIEW RIGHTS

This decision exhausts your administrative remedies. If you are dissatisfied with this ruling, you may have the right to seek a rehearing or reconsideration of this decision or order, subject to the grounds for and time limitations provided in Louisiana Revised Statute 49:959 and Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section Deputy Clerk
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 49:964, La. R.S. 42:1142(A)(1), and La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.